

BRAULIO MUNOZ)	
Claimant)	
VS.)	
)	Docket No. 1,010,583
BECERRA CONSTRUCTION, INC.)	
Respondent)	
AND)	
)	
AMERICAN FAMILY INSURANCE)	
Insurance Carrier)	

This is an appeal from a preliminary hearing order. Consequently, the Board's jurisdiction to review preliminary hearing findings is limited. At this stage of the claim, not every alleged error is subject to review. The Board can review preliminary hearing orders

in which an administrative law judge exceeded his or her jurisdiction. K.S.A. 2002 Supp. 44-551. Additionally, the Board has specific authority to review the preliminary hearing issues listed in K.S.A. 44-534a, which are:

- (1) did the worker sustain an accidental injury,
- (2) did the injury arise out of and in the course of employment,
- (3) did the worker provide timely notice and timely written claim, and
- (4) do certain other defenses apply.

And the term “certain defenses” refers to defenses that dispute the compensability of the injury under the Workers Compensation Act.¹

The issue of the amount of a worker’s average weekly wage is not a jurisdictional issue that is listed in K.S.A. 44-534a. Moreover, the Judge did not exceed his jurisdiction in deciding it. Consequently, this appeal should be dismissed.

WHEREFORE, the Board dismisses claimant’s appeal.

IT IS SO ORDERED.

Dated this ____ day of December 2003.

BOARD MEMBER

c: David J. Grummon, Attorney for Claimant
Patricia A. Wohlford, Attorney for Respondent and its Insurance Carrier
Kenneth J. Hursh, Administrative Law Judge
Anne Haught, Acting Workers Compensation Director

¹ *Carpenter v. National Filter Service*, 26 Kan. App. 2d 672, 994 P.2d 641 (1999).